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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 19th December, 2003:—

BILL NO. 70 OF 2003

A Bill further to amend the Constitution of India

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2003. Short title.

2. After article 371E of the Constitution, the following article shall be inserted, namely:— Insertion of new article 371EA.

"371EA. Parliament may by law provide for the establishment of a Medical University and an Institute of Technology in the State of Kerala." Establishment of a medical university and an institute of technology in the State of Kerala.

STATEMENT OF OBJECTS AND REASONS

There are thousands of students in Kerala aspiring to pursue professional courses including medicine. The number of medical and engineering colleges in the State, however, is not sufficient to meet their requirement. Not many students get admission in professional colleges outside the State particularly in National level Institutions. Indian Institute of Technology is an institution of par excellence. But it is located only in a few States and Kerala does not have one. As a result, even the bright students of Kerala find it difficult to get admission in Indian Institute of Technology outside the State.

Therefore, it is proposed that an Institute of Technology should be located in Kerala. A medical university should also be set up in Kerala for development of medical education in the State.

Hence this Bill.

NEW DELHI;
July 22, 2003.

RAMESH CHENNITHALA.

BILL NO. 73 OF 2003

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2003.

Amendment of article 103.

2. In article 103, clause (1), after the words and figure "in clause (1)", the words and figure "or clause (2)" shall be inserted.

Amendment of article 192.

3. In article 192, clause (1), after the words and figure "in clause (1)", the words and figure "or clause (2)" shall be inserted.

Amendment of the Tenth Schedule.

4. In the Tenth Schedule to the Constitution,—

(*a*) in paragraph 1, clause (*b*), the words and figure "or paragraph 3" shall be omitted.

(*b*) in paragraph (2),—

(*i*) in sub-paragraph (1), the figure "3", shall be omitted;

(*ii*) the existing Explanation shall be numbered as Explanation I and after the Explanation I as so re-numbered, the following Explanations shall be inserted, namely:—

"*Explanation II*—The expression 'any direction' occurring in clause (b) of sub-paragraph (*1*) shall mean direction to vote or abstain from voting on a matter where the fall of the Government is involved or where the matter is directly related to a matter of policy and programme of the political party on the basis of which it approached the electorate and where such direction clearly indicates that voting or abstaining from voting contrary to the direction may lead to a question as to the member becoming subject to disqualification under clause (b) of sub-paragraph (1) of paragraph 2.

Explanation III—The expression "a matter where the fall of the Government is involved" includes a motion of confidence or No-confidence in Council of Ministers, a motion for an adjournment of the business of the House, financial business, motion of thanks on President's address or any other matter or motion prescribed under rules made under sub-paragraph (1) of paragraph 8."

(*c*) Paragraph 3 shall be omitted.

(*d*) In paragraph 4, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:—

"(3) In case of a merger in accordance with this paragraph, a member who claims to have become member of such other political party with which his original political party has merged or as the case may be, of a new political party formed by such merger, shall, notwithstanding anything in this Constitution, not be qualified for being appointed as a Minister or for appointment to any public office or post for a period of three years from the date of the merger."

(*e*) Paragraph 6 shall be omitted.

(*f*) For paragraph 7, the following paragraph, shall be substituted, namely:—

Provision regarding unattached member.

"7. Where a member has been expelled or suspended from the membership of his political party for any period, the Speaker or the Chairman, on being so informed by his ex-political party, may declare the member as 'unattached member' and on being so declared the member concerned shall become free from the effect of any direction under clause (b) of sub-paragraph (1) of paragraph 2, issued by the political party from which he has been expelled or suspended and shall have the right to continue as such unattached member or join another political or legislature party or form a new party or rejoin his original political party which had suspended him, on the expiry or cessation of the period of his suspension.

A person disqualified for being a member of Parliament/State Legislatures shall not be appointed as Minister, etc.

7A. Notwithstanding anything in this Constitution, a person disqualified for being a member of either House of Parliament or of the Legislative Assembly or the Legislative Council of a State under this Schedule shall be disqualified for being appointed as a Minister and shall also be disqualified for appointment to any public office or post for a period of three years."

(*g*) In paragraph 8, in sub-paragraph (1), for clause (d), the following clause shall be substituted, namely:—

(*d*) the matter or motion referred to in Explanation III to paragraph 2 which may be considered as a matter where the fall of the Government is involved."

STATEMENT OF OBJECTS AND REASONS

Experience has revealed several serious lacunae, in the working of the Tenth Schedule of the Constitution which contains provisions as to disqualification on ground of defection. These lacunae have already inflicted considerable damage to our body politic and necessitate urgent amendments. The Bill seeks to make necessary amendments to the Schedule.

The Schedule makes a distinction between individual defection and group split. The distinction is unfair. It merely facilitates group or mass defections and has been widely misused or abused in a manner unbecoming of the dignity and prestige of parliamentary democracy. There is also nothing sacrosanct about the figure 'one-third' which according to paragraph 3 legitimises mass defections under the garb of a 'split' in the legislature party. The Bill seeks to omit the concept of 'split'.

Explanations II and III proposed to be inserted in paragraph 2 of the Schedule restrict the occasions on which whips and directions which entail disqualification can be issued. This is in the interest of maintaining the fundamental privilege of members guaranteed under articles 105 and 194 of the Constitution, namely, that of freedom of speech and expression in the House of the Parliament and State Legislatures. It is provided that the whip or the direction shall be such as to relate to a matter where the fall of the Government is involved (that is, a motion of confidence or no-confidence, adjournment motion, financial business, motion of thanks on President's Address or any other matter prescribed under Rules) or where it is a matter of policy and programme of the political party on which it had approached the electorate. It is also made mandatory that the whip or the direction shall clearly indicate that voting or abstaining from voting contrary to the whip or the direction might lead to a question as to the members becoming subject to disqualification on ground of defection.

The Bill also seeks to provide that in case of merger, the member concerned shall not be qualified for being chosen as a Minister or for appointment to any public office or post for the period of three years. So also the Bill makes a provision with respect to a member incurring disqualification under defection provisions.

The Bill also clarifies the position of an 'unattached member'. Where a member is expelled or suspended by his political party, the Speaker or the Chairman may declare him 'unattached'. Such a member shall not be subject to any whip or direction of his original political party and shall have the right to continue as such unattached member or join any other party or form a new party or rejoin his original political party on the expiry or cessation of the period of his suspension.

It is also undesirable and inadvisable to involve the exalted office of the Speaker or the Chairman in the controversial matter of deciding on questions as to disqualification on ground of defection. Clauses 2 and 3 of the Bill seek to amend article 103 with respect to members of Parliament and article 192 with respect to members of the State Legislatures and seek to revert to the established procedure on decisions on all questions as to disqualification. Like all other questions as to disqualification of members, questions of disqualification on ground of defection shall also be referred to the President or, as the case may be, to the Governor, who shall obtain the decision of the Election Commission and shall act according to such opinion.

NEW DELHI;
August 19, 2003

G.M. BANATWALLA.

G. C. MALHOTRA,
Secretary-General.

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